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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,105	11/02/2000	Daniel T. Bogard	SIG000053	4992
7590 12/12/2007 GARLICK HARRISON & MARKISON LLP P O BOX 160727 AUSTIN, TX 78716			EXAMINER FLANDERS, ANDREW C	
			ART UNIT 2615	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/705,105

Applicant(s)

BOGARD, DANIEL T.

Examiner

Andrew C. Flanders

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-35 and 37-46 is/are rejected.
- 7) ☒ Claim(s) 5, 7 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01 November 2007 has been entered.

### ***Response to Arguments***

Applicant's arguments filed 01 November 2007 have been fully considered but they are not persuasive.

Applicant's arguments are not persuasive for the same reasons stated in previous office actions.

Specific arguments have previously been addressed, such as:

"Yokozawa does not, however, recite processing data received from an external content display device to produce presentation information and processing content data for presentation on the external content display device based on the presentation information as is recited in Applicant's claim 1."

and

"Allan does not, however, recite separating modulated data from the content data, retrieving the data from the modulated data, and introducing the content data into a channel coupling the device to the external content display device"

Applicant further states:

Further, the Office Action took "official notice that it is notoriously well known to implement methods such as the ones disclosed in Applicant's claims 1, 14, 19, and 28 on a programmable processor." (Final Office Action at page 6). Applicant objects to the improper generalization of it being "notoriously well known to implement methods such as the ones disclosed in Applicant's claims..." in view of the fact that documentary evidence has not been presented by the Examiner substantiation such a conclusion as *prima facie* showing of obviousness has not been presented, as set forth above.

Notably, Official Notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. MPEP § 2144.03 at page 2100-134. In context, Official Notice is for facts asserted to be well-known, or to be common knowledge in the art that are capable of instant and unquestionable demonstration as being well-known. Further, such a device should be rare when an application is under final rejection, *Id.*

Examiner submits that this portion of the rejection became admitted prior art when Applicant failed to traverse the rejection in the response immediately following the first instance of this rejection (08 November 2005; Remarks filed 09 March 2006 do not address this rejection).

Finally, Applicant states:

"Applicant respectfully submits that there is no suggestion or motivation for the addition to the hypothetical combination of Yokozawa and Allen."

Examiner respectfully disagrees. In the prior rejection, the motivation was given "to efficiently send and receive modulated data form the player to the control unit" which Barclay would certainly aid in the combination. Applicant provides no rationale as to why there is no motivation when the above statement is present in the rejection and only provides a conclusory statement.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2 – 4, 6, 9 10, 12, 13, 14, 15, 17, 18, 19, 21, 24, 26, 27, 29, 31, 32, 33, 35, 38, 40, 41, 42, 43, 45 and 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokozawa (U.S. Patent 5,420,739) in view of Allen (U.S. Patent 4,442,540).

Regarding **Claims 1, 14, 19 and 28**, Yokozawa discloses:

A device for processing content data (abstract), the device comprises:

data processing circuitry (headphones 110; 19) operably coupled to process data received from an external content display device (ECDD is met by 214 which is

operably coupled to headphones 110)) wherein the data processing circuitry produces presentation information (i.e. audio playback through the headphones);

content processing module (210) operably coupled (connected to 214 and 110) to process content data (i.e. track timing information) based on the presentation information (i.e. the track and timing depend upon which track is selected and currently playing and thus are 'based on the presentation information') for presentation on the external content display device (timing information shown on 221).

Yokozawa does not disclose a transceiving module operable coupled to the data processing circuitry and the content processing module, wherein the transceiving module separates modulated data from the content data, wherein the transceiving module retrieves the data from the modulated data, and where the transceiving module introduces the content data into a channel coupling the device to the external content display device.

The combination of Yokozawa in view of Allen discloses:

transceiving module operably coupled to the data processing circuitry and the content processing module (i.e. the device in Allen disclosed in figure 1 is attached between the player and the display/headphones and operates in both ways, sending data from the audio player to the display/headphones and sending data from the controls to the audio player in Yokozawa),

and retrieves the received data from the modulated data of the external content display device (i.e. at the receiver the speech and data signals are sent to an A/D converter and then through a time varying filter to separate the voice and data signals

which are sent to their appropriate locations; col. 4 lines 19 – 23 in Allen; the locations in this instance being the display 221 and the headphones 110 in Yokozawa),

and wherein the transceiving module introduces the content data into a channel coupling the device to the external content display device (i.e. the voice signal is then sent to its appropriate location, in the combination, the headphones).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the system for combining audio and data for transmission over a single line as taught by Allen to the system portable audio system with a detachable control unit taught by Yokozawa. One would have been motivated to do so in order to efficiently transmit voice and data over a single cable avoiding the user of band-switching techniques thereby maximizing the audio's intelligibility; col. 2 lines 35 – 40 in Allen.

Regarding **Claims 33 and 42**, in addition to the elements stated above regarding independent claims 1, 14, 19 and 28, the combination of Yokozawa in view of Allen fails to disclose a processing module with a memory operably coupled to the processing module, wherein the memory includes operation instructions that cause the processing modules to carryout the features of claims 1, 14, 19 and 28.

However, Examiner takes official notice that it is notoriously well known to implement methods such as the ones disclosed in Applicant's claims 1, 14, 19 and 28 on a programmable processor. One would have been motivated to do so in order to reduce costs when manufacturing and provide more features in a smaller package.

Regarding **Claim 2**, in addition to the elements stated above regarding claim 1, the combination of Yokozawa in view of Allen further discloses:

wherein the content data comprises at least one of: audio data, video data, text data, and multimedia data (i.e. the system is an audio player; Fig. 1 in Yokozawa).

Regarding **Claim 3**, in addition to the elements stated above regarding claim 1, the combination of Yokozawa in view of Allen further discloses:

wherein the data comprises at least one of digitized audio, digitized video, and incoming remote control data (i.e. the audio player is controlled by the remote control; Fig. 1 element 217 in Allen).

Regarding **Claim 4**, in addition to the elements stated above regarding claim 1, the combination of Yokozawa in view of Allen further discloses:

wherein the remote control data comprises at least one of: volume adjust data, stop data, play data, pause data, rewind data, fast forward data, next track data, channel up/down data, bass boost data, record data, intensity data, contrast data, security access data, and telephone access code data (col. 7 lines 20 – 25 in Allen).

Regarding **Claims 6, 21 and 35**, in addition to the elements stated above regarding claims 1, 19 and 33, the combination of Yokozawa in view of Allen further discloses:

wherein the transceiving module comprises:

high pass filter to separate the content data from the modulated data (i.e. the data and voice signals are separated by the filter and sent to their appropriate locations; col. 4 lines 18 – 23 in Allen);

gain module operable coupled to provide gain to the modulated data to produce gain modulated data (i.e. controls such as volume; col. 7 lines 16 – 27; in Yokozawa);

data extraction circuit operable coupled to retrieve the data from the gain modulated data (i.e. the headphones 110 and control unit 217 receive the amplified signal and display numbers and play analog audio accordingly; Fig. 1 in Yokozawa).

Regarding **Claim 9**, in addition to the elements stated above regarding claim 1, the combination of Yokozawa in view of Allen further discloses:

wherein the data processing circuitry further comprises:

display information module operable coupled to provide outgoing display data to the transceiving module (Fig. 1 elements 221 and 110 displays track and timing information from the portable audio device; Fig. 1 element 200).

Regarding **Claims 10, 15, 24 and 38**, in addition to the elements stated above regarding claims 9, 14, 19 and 33, the combination of Yokozawa in view of Allen further discloses:

wherein the transceiving module further comprises:

data modulator operably coupled to modulate the outgoing display data to produce modulated outgoing display data (i.e. modem 7 modulates the data signal; Fig. 1 in Allen); and

combining circuit operably connected to combine the content data and the modulated display data to produce transmit data that is provided to the external content display device (i.e. the data and audio is combined and output at element 14 in Fig. 1 of Allen).

Regarding **Claims 12, 17, 26, 31, 40 and 45**, in addition to the elements stated above regarding claims 10, 15, 24, 28, 38 and 42, the combination of Yokozawa in view of Allen further discloses:

high pass filter operably coupled to the channel, wherein the high pass filter filters the modulated display data to produce filtered data, wherein the filtered data is provided on the channel (Fig. 1 element 3 of Allen); and

high frequency isolation module operably coupled to the channel, wherein the high frequency isolation module substantially attenuates the filtered data and passes the content data substantially untenant such that the content data is isolated from the modulated display data (Fig. 1 element 3 of Allen).

Regarding **Claims 13, 18, 27, 32, 41 and 46** in addition to the elements stated above regarding claims 1, 14, 19, 28, 33 and 42 the combination further discloses:

an external content display device detection module operably coupled to detect capabilities of the external content display device in preparing the data (The display device (DD) displays the track timing and other track info these display is from the playback device's (PD) ability to read the track info and send it to the display, thus the DD detects the abilities of the PD).

Regarding **Claims 29 and 43**, in addition to the elements stated above regarding claims 28 and 42, the combination of Yokozawa in view of Allen further discloses:

wherein the combining the display data and the content data further comprises:  
modulating the display data at a rate that is substantially higher than the rate of the content data to produce modulated display data (i.e. the data signal is sent in an upper portion of the channel bandwidth above that of the speech signal; col. 4 lines 3 – 7).

**Claims 8, 11, 16, 23, 25, 30, 37, 39 and 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokozawa (U.S. Patent 5,420,739) in view of Allen (U.S. Patent 4,442,540) and in further view of Barclay (U.S. Patent 6,850,55).

Regarding **Claims 8, 23 and 37**, in addition to the elements stated above regarding claims 6, 21 and 35, the combination of Yokozawa in view of Allen fails to disclose the limitations of the data extraction circuit claimed in claim 8.

Barclay discloses:

clock recovery circuit operably coupled to generate a clock signal from the gain modulated data (i.e. encoding may be employed in Fig. 4 to facilitate synchronization and or regeneration of a clock signal; col. 8 lines 19 – 21);

a correlator operably coupled to receive the clock signal, wherein the correlator detects patterns of the data contained within the modulated data to produce correlated data (i.e. the correlator unit outputs positive and negative peaks when there is a match; col. 5 lines 29 – 31); and

a phase comparator operably coupled to receive the correlated data and to produce therefrom the data (i.e. the peaks output from the correlator are fed to a message regeneration circuit which converts the peaks into binary signals).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use Barclay's message regeneration method on the combination of Yokozawa in view of Allen. One would have been motivated to do so in order to efficiently send and receive modulated data from the player to the control unit.

Regarding **Claims 11, 16, 25, 30, 39 and 44**, in addition to the elements stated above regarding claims 6, 15, 24, 29, 38 and 43, the combination of Yokozawa in view of Allen fails to disclose the limitations of the data modulator claimed in claim 8.

Barclay discloses:

a pseudo random code generator operably coupled to produce a random code (i.e. Fig. 4 element 40); and

a modulator operably coupled to receive the random code and the outgoing display data to produce the modulated display data (i.e. the microprocessor receives the information from the message regeneration circuit and outputs it to display 49; Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use Barclay's message regeneration method on the combination of Yokozawa in view of Allen. One would have been motivated to do so in order to efficiently send and receive modulated data from the player to the control unit.

#### ***Allowable Subject Matter***

Claims 5, 7 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

This is a continuation of applicant's earlier Application No. 09/705,105. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7546. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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acf



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**